

REMARKS

The Restriction Requirement asserts that the application contains claims directed to patentably distinct species. However, section 806.03 of the MPEP states:

806.03 Single Embodiment, Claims Defining Same Essential Features [R-3]

Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are *>*not directed to distinct inventions; rather they are *<*different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

The Applicant respectfully submits that the pending claims define the same essential characteristics of a single disclosed embodiment, i.e. Figure 1. Each of the species identified in the Restriction Requirement define the same essential characteristics of transmitting and/or receiving modulation and non-modulation signals. The pending claims simply vary in breadth or scope of definition.

Furthermore, section 806.04(f) of the MPEP states:

806.04(f) *>*Restriction Between *<* Mutually Exclusive *>*Species *<* [R-3]

*>*Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive.*<* Claims **** to different species *>*are mutually exclusive if *<* one claim recites limitations *>*disclosed for *<* a first species but not *** a second, while a second claim recites limitations disclosed only for the second species and not the first. This *>*may also be *<* expressed by saying that *>*to require restriction between claims limited to species, the *<* claims **** must not overlap in scope*<*.

The Applicant respectfully submits that the species identified in the Restriction Requirement are not mutually in that they do overlap. Specifically, the species overlap in the transmitting and/or receiving of modulation and non-modulation signals.

Accordingly, the Applicant respectfully requests that the Restriction Requirement be withdrawn, and that the prosecution of the application continues with an examination of claims 1, 3, 5-7, and 21-34.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@munckcarter.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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Date:

May 27, 2009



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